

REMARKS

Claims 1-14, 16-22, and 27-3- are currently pending in the application. No claims stand allowed. Claims 1 and 22 have been amended. Claims 15 and 23-26 have been canceled without prejudice, waiver, or disclaimer. No new matter has been added.

First Action Final Rejection

The outstanding Office Action is a first action final rejection issued in response to Applicant's previous reply, which was filed with an RCE on November 18, 2009. Applicant respectfully submits that the outstanding Office Action should not have been made final, because the Office Action has not set forth a *prima facie* case of obviousness for at least claim 11.

Applicant notes the Office Action of February 4, 2010 does not specifically reject claim 11. Although the Summary of the Office Action indicates that claim 11 stands rejected, the Office Action omits any explanation of how any cited art renders this claim obvious. Applicant respectfully submits that this omission amounts to a failure to articulate a *prima facie* case of unpatentability and the burden to rebut the "rejection" of claim 11 has not yet shifted to the Applicant. Consequently, the Office Action of February 4, 2010 was not properly made final, and a next Office Action rejecting claim 11 cannot properly be made final since only then would the Applicant be obligated to rebut the rejection, presuming that such an Office action sets forth a *prima facie* case. *See MPEP § 706.07(a)*.

Since a *prima facie* case of obviousness of claim 11 has not been established in the record, the claims would not have been properly finally rejected on the grounds of record in the next Office Action if they had been entered in the application prior to the filing of the RCE. Applicant therefore respectfully requests that the finality of the outstanding Office Action be withdrawn.

Claim Rejections under 35 U.S.C. 112

Claims 23-26 are rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 23-26 have been canceled, so the rejection of these claims is moot.

Claim Objections

Claim 15 is objected to under 37 CFR 1.75(c) as allegedly being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 15 has been canceled, so the objection of this claim is moot.

Claim Rejections under 35 U.S.C. 103

Claims 1, 3, 5-9, 12-17, and 20-30 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Assignee disclosed prior art in view of Acres (5655961) or Joshi (6969226). This rejection is respectfully traversed.

Claim 1 has been amended to recite a gaming terminal data repository comprising a processor designed or configured to update a game software component containing a paytable for a gaming machine when an event occurs on at least one of the gaming terminals during a certain period of time during the day, wherein the event is selected from the group consisting of card-in, card-out, power hit, tilt, promotional card insert, promotional card removal, and jackpot events. In this way, a paytable can be changed in response to events related to physical interactions with the machine and jackpot-related events such as, for example, a change in a jackpot amount or a player winning a jackpot.

Support for the amendments to claim 1 may be found in the specification at, for example, page 41, lines 15-18: “For example, a game event during a certain period of time during the day may trigger an update of a game software component containing a paytable for a gaming machine.”

Support for the events recited in amended claim 1, such as promotional card insert, promotional card removal, and jackpot events, may be found in U.S. patent application Serial No. 09/642,192 entitled a GAMING MACHINE VIRTUAL PLAYER TRACKING AND RELATED SERVICES filed 8/18/2000 by LeMay (hereinafter “LeMay”), which is incorporated by reference in the instant application at page 23, lines 3-6. A relevant portion of LeMay is reproduced below for the Examiner’s convenience:

Other examples of player tracking events which may be received from one of the physical devices 492 by a device interface, include 1) Main door/ Drop door/ Cash door openings and closings, 2) Bill insert message with the denomination of the bill, 3) Hopper tilt, 4) Bill jam, 5) Reel tilt, 6) Coin in and Coin out tilts, 7) Power loss, 8) Card insert, 9) Card removal, 10) Promotional card insert, 11) Promotional card removal, 12) Jackpot and 13) Abandoned card.

LeMay, page 13, lines 11-17.

Claim 22 has been amended to recite a gaming system comprising a processor designed or configured to store to the repository memory current and past gaming software configurations for each of the plurality of gaming terminals, and store to the repository memory the transaction information categorized according to each of the current and the past game software configurations. Support for the amendment to claim 22 may be found in claim 11. None of the references cited in the Office Action are cited as disclosing or suggesting the aforementioned features of amended claim 22.

Claim 2 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over disclosure of admitted prior art in view of Acres or Joshi as applied to claim 1 above, and further in view of either O’Conner (6178510) or Paravia (6508710) or Martin (5618232). This rejection is respectfully traversed.

Claims 4 and 23-26 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over admitted prior art in view of Acres or Joshi as applied to claim 1 above, and further in view of Walker (6110041). This rejection is respectfully traversed.

Claims 23-26 have been canceled, so the rejection of these claims is moot.

Claims 10-11 and 19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over disclosed admitted prior art in view of Acres or Joshi as applied to claim 1 above, and further in view of Alderson (6019963), Fawcett (5845077), Frye (6047129), or Halliwell (5473772). This rejection is respectfully traversed.

The Office Action omits any explanation of how any cited art renders claim 11 obvious. Applicant respectfully submits that this omission amounts to a failure to articulate a *prima facie* case of unpatentability and the burden to rebut the “rejection” of claim 11 has not yet shifted to the Applicant.

Claim 18 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over disclosed admitted prior art in view of Acres or Joshi as applied to claim 1 above, and further in view of Heath (6006034). This rejection is respectfully traversed.

The remaining dependent claims incorporate, by virtue of their dependency, all of the features of the independent claims on which they are based. Therefore, Applicant respectfully submits that the rejections of these claims should be withdrawn for the same reasons as their respective independent claims.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Although the present communication may include alterations to the application or claims, or characterizations of claim scope, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations herein are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including

subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

The Commissioner is hereby authorized to charge any additional fees, including any extension fees, which may be required or credit any overpayment directly to the account of the undersigned, No. 50-4480 (Order No. IGT1P042C1).

Respectfully submitted,
Weaver Austin Villeneuve and Sampson LLP

/Ernest L. Ellenberger/
Ernest L. Ellenberger
Reg. No.: 56,529

P.O. Box 70250
Oakland, CA 94612-0250
(510) 663-1100